

To: Senate Business and Transportation Committee

From: Tom Simpson, The Standard

Re: Statement of Opposition to SB 317

Chair Beyer and members of the committee, my name is Tom Simpson and I am director of Government and Regulatory Affairs with The Standard. The Standard was founded in 1906 in Oregon and remains headquartered here today. We employ approximately 3,000 individuals, the majority here in Oregon, and have about 7 million insurance and retirement plan customers nationwide.

This proposed legislation concerns a complex and technical aspect of trust law that has been addressed by federal courts, including the United States Supreme Court, in countless cases. I am not an expert in trust law and, fortunately, am not here to educate the Committee on the law of trusts. I will simply say that the U.S. Supreme Court has repeatedly endorsed the right of those purchasing group benefit plans to grant discretionary authority to their insurance administrator.

This legislation intersects with not just federal common law, which is continually evolving, but also with ERISA, the Employee Retirement Income Security Act. The U.S. Department of Labor is the chief regulator for ERISA, and regularly engages in rulemaking concerning these matters.

Discretionary clauses are currently the subject of a rulemaking by the Oregon Insurance Division, the State's chief regulator for insurance matters. The rulemaking is ongoing and has involved a wide swath of Oregon's insurance industry, interested trial lawyers, and consumer advocates. The rulemaking included an advisory committee and public hearing, and is currently undergoing a formal comment period. The Standard is actively engaged in the rulemaking and has offered comments in support of the Division's rulemaking.

While we certainly do not dispute the legislature's ability to act in this arena, we think that this matter is better suited for regulatory rulemaking by experts in the subject matter.

This legislation is a shotgun approach to a nuanced and technical issue. Were this a case where the regulator was asleep at the wheel or derelict in their duty to police an industry, we would be at the table with the legislature to craft a remedy. This is not such an instance and we respectfully request that the legislature allow the Oregon Insurance Division to manage this complex matter and the industry they are charged with regulating.

Thank you.